

## Health Care Fraud Penalties May Be On the Rise

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On January 26th, the Senate Judiciary Committee addressed fraud enforcement in their first hearing of the new Congressional session. In this most recent hearing, the Judiciary Committee placed special emphasis on health care fraud. The federal government estimates between \$45 billion to \$75 billion is paid to health care "fraudsters" each year. In fiscal year 2009, the federal government recovered \$2.5 billion from health care fraud cases. Lawmakers want to close that recovery gap with more civil recoveries, criminal investigations, prosecutions, and convictions.

Lawmakers are concerned that medical professionals have become accustomed to paying their way out of these claims as part of the cost of doing business. As a result, they want the Justice Department to increase prosecutions of not only the businesses and organizations that violate federal laws but also go after the individuals within the organizations. In these economic times, the recovery of fraudulently paid funds and the income through fines and penalties are an attractive political subject. But the Judiciary Committee voiced more than its desire to increase fines, the Committee emphasized the need to increase prison sentences for violating health care anti-fraud laws. Lawmakers see jail time as a powerful deterrent to health care fraud. Many courts can be more lenient in sentencing health care fraud crimes over violent crimes and the Committee wants to see that health care "fraudsters" are put behind bars.

The subject of the first Judiciary Committee hearing of the 112th Congress signals that a crackdown on federal fraud is a top priority for the lawmakers. The current leadership of the Senate Judiciary Committee (Sen. Patrick Leahy, D-VT and Sen. Chuck Grassley, R-IA) have been very active in strengthening federal fraud laws. Sen. Leahy and Sen. Grassley authored numerous anti-fraud acts, including the 1986 amendments to the federal False Claims Act and the recent Fraud Enforcement and Recovery Act. This hearing early in the 112th Congress indicates that the lawmakers may be sharpening their pencils to strengthen fraud enforcement further in new legislation. Proposals may include increasing fines, increasing jail time, requiring more frequent progress reports on health care fraud prosecutions from the Department of Justice, and increasing funding for fraud prosecutions. One way or another, federal oversight of health care fraud will only be strengthened in the coming years. As a result, health care providers are encouraged to review and update their compliance programs or risk stiffer fines in the future or even jail time.